

ATTACHMENT B
STAFF'S ARGUMENT

STAFF'S ARGUMENT TO ADOPT THE PROPOSED DECISION

Respondent Staci N. Campbell (Respondent Campbell) worked as a CHP Officer for Respondent California Highway Patrol (CHP). By virtue of her employment, Respondent Campbell is a state safety member of CalPERS subject to Government Code section 21151.

Respondent Campbell applied for Industrial Disability Retirement (IDR) on May 17, 2001. CalPERS approved the application on March 4, 2002 based on Respondent Campbell's orthopedic (right wrist/hand) condition. Respondent Campbell began receiving IDR benefits retroactively to December 8, 2000.

CalPERS notified Respondent Campbell that it would be reexamining her, pursuant to Government Code section 21192, to determine her continued eligibility to receive disability retirement. CalPERS referred Respondent Campbell to Daniel M. D' Amico, M.D., a board-certified Orthopedic Surgeon, for an Independent Medical Examination (IME). Dr. D'Amico reviewed medical records, interviewed respondent, and conducted an IME on January 25, 2016. Dr. D'Amico prepared a report summarizing the IME and his findings upon examination of Respondent Campbell. He concluded that Respondent Campbell was no longer substantially incapacitated for the performance of her usual duties as a CHP Officer.

Based on Dr. D'Amico's report, CalPERS determined that Respondent Campbell was capable of performing the usual duties of a CHP Officer and eligible for reinstatement pursuant to Government Code section 21192. CalPERS informed Respondent Campbell and Respondent CHP of its determination on February 19, 2016. Respondent Campbell appealed the determination and the matter proceeded to hearing before the Office of Administrative Hearings on February 13, 2017.

Prior to the hearing, CalPERS explained the hearing process to Respondent Campbell and the need to support her case with witnesses and documents. CalPERS provided Respondent Campbell with a copy of the administrative hearing process pamphlet. CalPERS answered Respondent Campbell's questions and clarified how to obtain further information on the process.

At the hearing, Dr. D'Amico described his findings upon physical examination of Respondent Campbell. He testified about his evaluation and the reasons for his conclusion that Respondent Campbell was no longer incapacitated from the performance of her duties as a CHP Officer due to her orthopedic (right hand/wrist) condition.

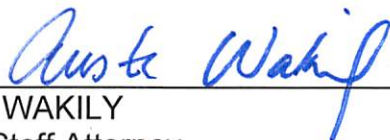
Respondent Campbell presented her own testimony. She did not call any medical experts to testify or introduce any medical reports or other documentary evidence.

The ALJ found that the only competent medical evidence presented concerning Respondent Campbell's current condition was provided by CalPERS. It established that Respondent Campbell is not substantially incapacitated from performing the usual and customary duties of a CHP Officer.

For this reason, the ALJ concluded that Respondent Campbell's appeal should be denied. The law and the facts support the Proposed Decision. Staff argues that the Board adopt the Proposed Decision.

Because the Proposed Decision applies the law to the salient facts of this case, the risks of adopting the Proposed Decision are minimal. The member may file a Writ Petition in Superior Court seeking to overturn the Decision of the Board.

April 19, 2017



AUSTA WAKILY
Senior Staff Attorney